

1 THE HONORABLE Marc L. Barreca
2 Chapter 13
3 Location: Port Orchard
4 Hearing Date:
5 Time:
6 Response Date:
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10 **UNITED STATES BANKRUPTCY COURT**
11 **WESTERN DISTRICT OF WASHINGTON AT SEATTLE**
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14 **IN RE:**) **CASE NO. 10-12091**
15 **WILLIAM BLAKE HOLMES,**)
16 **MELISA TEISCHY HOLMES,**)
17 **Debtor(s).**) **ADVERARY NO.**
18 _____)
19 **WILLIAM BLAKE HOLMES,**) **COMPLAINT TO DECLARE**
20 **MELISA TEISCHY HOLMES,**) **REAL ESTATE LOANS AS**
21 **Plaintiff(s),**) **UNSECURED LIENS ON**
22 **vs.**) **DEBTORS' RESIDENCE**
23 **COLUMBIA BANK,**)
24 **Defendant.**)
25 _____)

26 COMES NOW Plaintiffs, William Blake Holmes and Melisa Teischy Holmes, by
27 and through their attorney, DAVID CARL HILL, and allege as follows:

28 **I.**

29 That Plaintiffs are the debtors in the above entitled action and the owners of real
30 property located at 24218 Stottlemeyer Rd NE, Poulsbo, Kitsap County, Washington, more
31 fully described as:

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38 Complaint to Declare Real Estate Loans as
39 Unsecured Liens on Debtors' Residence - 1 -

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LOT C OF SHORT PLAT NO. 3848R-3 RECORDED UNDER AUDITOR'S FILE NO. 8507260096 AND AMENDED UNDER AUDITOR FILE NOS. 9005090178, 9201230009 AND 9310060213) THAT PORTION OF THE NORTH HALF OF THE SOUTH HALF OF THE SOUTHWEST QUARTER OF SECTION 31, TOWNSHIP 27 NORTH, RANGE 2 EAST, W.M., IN KITSAP COUNTY, WASHINGTON.

Tax Parcel No.312702-3-016-2002

II.

That Columbia Bank is a mortgage lender licensed to do business in the State of Washington.

III.

10 That on or about 4/21/08, Defendant Columbia Bank's predecessor in interest,
11 American Marine Bank granted a loan to a corporation owned by Plaintiffs in the principal
12 amount of \$107,000.00. Said loan was guaranteed by Plaintiffs and secured by a deed of
13 trust. That on the date of said loan, Debtor's property was encumbered by a Deed of Trust
14 in favor of Bank of America, which secured a debt to the same in the approximate amount
15 of \$406,527.61, and by a Deed of Trust in favor of WATERMARK CREDIT UNION in the
16 principal amount of \$162,000.00.

IV.

That the current market value of the property securing the above stated loans is \$351,000.00.

V.

That Plaintiffs filed for relief under Chapter 13 of the Bankruptcy Code on February 26, 2010. In connection therewith, Plaintiffs filed a Plan which provided that the second mortgage (deed of trust) and the third mortgage (deed of trust) fully exceeded the value of

Complaint to Declare Real Estate Loans as
Unsecured Liens on Debtors' Residence - 2 -

LAW OFFICE OF
DAVID CARL HILL,
Hill Law, Com, P.S.
2472 BETHEL RD SE, SUITE A
PORT ORCHARD, WA 98366
(360) 876-5015 FAX: (360) 895-1491

1 Plaintiffs' residence and should therefore be deemed unsecured. Said debt is subject to
2 modification pursuant to 11 U.S.C. §1322(b)(2).

3 **WHEREFORE**, Plaintiffs/debtors pray as follows:

4 1. For an order declaring the lien of Columbia Bank to be wholly unsecured;
5 2. Directing that upon discharge of the debtors, that said lien be removed as an
6 encumbrance upon Plaintiffs/Debtors' real property.
7 3. For such other and further relief as the Court deems just and appropriate.

8 DATED this 9th day of August, 2010.

9
10 /s/ David Carl Hill
11 DAVID CARL HILL, WSBA #9560
Attorney for Debtors/Plaintiffs

12 STATE OF WASHINGTON)
13 COUNTY OF KITSAP) ss.
)

14 WILLIAM BLAKE HOLMES and MELISA TEISCHY HOLMES, being first duly
15 sworn on oath, deposes and states:

16 That we are the plaintiffs in the above entitled action. We have read the foregoing
17 Complaint, know the contents thereof and believe the same to be true and accurate.

18
19 /s/ William Blake Holmes
William Blake Holmes

20
21 /s/ Melisa Teischy Holmes
Melisa Teischy Holmes

22 SUBSCRIBED AND SWORN to before me this 9th day of August, 2010.

23
24 /s/ Corrine Rowley
NOTARY PUBLIC in and for the
25 State of Washington.
My commission expires: Aug 15, 2013.

26
27
28 Complaint to Declare Real Estate Loans as
Unsecured Liens on Debtors' Residence - 3 -

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